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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,068	02/18/2005	Yoshiki Hashizume	0033-0983PUS1	5831

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EXAMINER	
ABU ALI, SHUANGYI	

ART UNIT	PAPER NUMBER
1793	

NOTIFICATION DATE	DELIVERY MODE
09/09/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/525,068	**Applicant(s)** HASHIZUME ET AL.	
	Examiner SHUANGYI ABU ALI	**Art Unit** 1793	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,5 -6 , 12 and 15*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Emily M. Le/
Supervisory Patent Examiner, Art Unit 1793

/Shuangyi Abu-Ali/
Examiner, Art Unit 1793

Continuation of 11. does NOT place the application in condition for allowance because: The declaration under 37 CFR 1.132 filed 08/17/2009 is insufficient to overcome the rejection of claims based upon the unexpected result as set forth in Office action because: Evidence of unexpected properties may be in the form of a direct or indirect comparison of the claimed invention with the closest prior art which is commensurate in scope with the claims. The claims disclose that molybdenum amount is 0.01-5% and the silicon oxide amount is 1-20 %. Example 10 only discloses that the molybdenum amount is 0.45% and the silicon oxide amount is 4.5 %. Thus while the claims recite a range, the evidence submitted provides for a single point only within that range. To establish unexpected results over a claimed range, applicants should compare asufficient number of tests both inside and outside the claimed range to show the criticality of the claimed range.

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Continuation of 13. Other: Claims 1and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over combined teaching of U. S. Patent No. 5,637,143 to Jenkins et al. and U. S. Patent No. 5,364,467 to Schmid et al., further in view of U. S. Patent No. 6,894,089 to Mei et al.

Regarding claim 1, Jenkins et al. disclose an anti-corrosive aluminum pigment of high metallic luster. The aluminum pigment treated with phosphomolybdic acid (col. 5, lines 35 and 36).

But they are silent that the pigment is further coated with silica.

However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to treat the pigment with silica, motivated by the fact that Schmid et al., also drawn to surface treated aluminum pigment, disclose that the pigment treated with metal oxide such as silica after coated with molybdenum oxide has distinctly improved resistance to outside influences. (col. 3, lines 26-29).Schmid et al. disclose in one of their pigment examples, that the molybdenum amount is 2.2% and the silicon oxide amount is 18.8 %(col. 9, lines 49-57).

Combined teaching of Jenkins et al. and Schmid et al. disclose a pigment composition set forth above. But they are silent that the pigment is further coated with a coat prepared from a silane composition as applicants set forth in claim 1.

However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to coat the pigment of combined teaching of Jenkins et al. and Schmid et al. with a silane layer, motivated by the fact that Mei et al. also drawn to pigment composition, disclose that pigments coated with silane compositions have better processibility and dispersibility in polymeric materials (col. 2, lines 1-3).

Regarding claim 5, Mei et al. disclose the suitable silane for coating is

$$Rx\ Si(R')4\text{-}x$$

wherein R is a nonhydrolyzable functional group directly or indirectly bonded to the silicon atom; R' is a hydrolyzable group such as alkoxy, halogen, acetoxy, hydroxy or mixtures thereof; and x=1 to 3. (col. 3, lines 1-10).

Regarding claim 6, Jenkins et al. disclose that aluminum amount is about 0.4% in the resin coating composition (col. 11, lines 53-60).

Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over combined teaching of U. S. Patent No. 5,637,143 to Jenkins et al. ,U. S. patent No. 5,364,467 to Schmid et al. and U. S. Patent No. 4,842,837 to Shimizu et al., further in view of U. S. Patent No. 6,894,089 to Mei et al.

Regarding claims 12 and 15, combined teaching of Jenkins et al., Schmid et al., and Shimizu et al. disclose a process of making an aluminum pigment coated with molybdenum coat, a silica coat as applicant set forth above. Schmid et al. disclose in one of their pigment examples, that the molybdenum amount is 2.2% and the silicon oxide amount is 18.8 %(col. 9, lines 49-57).This is apparent because the combined teachings of Jenkins et al. and Schmid et al. disclose a pigment composition as set forth above. Jenkins et al. disclose a method for the manufacture of an aluminum pigment wherein a molybdenum coating is applied thereto by stirring a dispersed solution of aluminum particles and a molybdenum compound (col. 7, lines 49-57). But they are silent that silica coat is made through the process as applicants set forth in claims 12 and 15.

However, Shimizu et al. disclose a process of making silica by using ammonia as catalyst to hydrolysis of organic silicon compound. Since basic ammonia solution used in reaction, the pH of the reaction mixture will be adjusted upward into the basic range (7-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to use Shimizu et al. method to making silica coating, motivated by the fact that Schmid et al. disclose that this method is easy and highly productive and the silica made through this method has high purity. (col. 2, lines 1-15).

In view of this, the combined teaching of Jenkins et al., Schmid et al., and Shimizu et al. disclose a process of making an aluminum pigment coated with molybdenum coat and a silica coat as applicant set forth in the claims. But they are silent that the pigment is further coated with a coat prepared from a silane composition as applicant set forth in claims 12 and 15.

However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to coat the pigment of the combined teachings of Jenkins et al. and Schmid et al. with a silane layer, motivated by the fact that Mei et al. also drawn to pigment composition coated with silane by hydrolysis organosilicon with caustic, disclose that pigment coated with a silane composition has better processibility and dispersibility in polymeric materials (col. 2, lines 1-3).